

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of Application of)	
)	
FRED LUXENBERG)	File No. 0001830800
)	
Central Station Alarm Association Informal)	
Request to Return Application)	

ORDER

Adopted: January 29, 2007

Released: January 30, 2007

By the Deputy Chief, Mobility Division, Wireless Telecommunications Bureau:

1. *Introduction.* We have before us an informal request filed on August 24, 2004, by Central Station Alarm Association (CSAA) that the above-captioned application filed by Fred Luxenberg (Luxenberg) be returned to the applicant.¹ CSAA seeks to have the application returned for Luxenberg to either delete or replace frequency pairs 460.900/465.900 MHz and 460.975/465.975 MHz, for which CSAA asserts that Luxenberg does not satisfy the eligibility requirements.² We grant the request to the extent indicated below.

2. *Background.* On August 5, 2004, Luxenberg filed an application seeking to modify the license for Station WPPU614, Parma, Ohio, to, among other things, add frequency pairs 460.900/465.900 MHz and 460.975/465.975 MHz.³ On August 24, 2004, CSAA filed an informal request that the Commission return the application to Luxenberg because the application specified use of two channel pairs that, pursuant to Section 90.35(c)(63) of the Commission's Rules, are restricted to use by entities rendering a central station commercial protection service.⁴

3. *Discussion.* Section 90.35(c)(63) of the Commission's Rules defines central station commercial protection service as an electrical protection and supervisory service rendered to the public *from and by a central station accepted and certified* by one or more of the recognized rating agencies, or Underwriters Laboratories' (UL), or Factory Mutual System.⁵ The same rule section also explains that the frequencies may be used only by persons rendering a central station commercial protection service within the service area of the radio station and may only be used for safety of life and property, and for

¹ See Informal Request filed on August 24, 2004 by CSAA (CSAA Request).

² We note that the application on September 10 and October 15, 2004, for matters unrelated to the issue that is subject to this action. See Return Letter Ref. Nos. 3022510, 3085508. Such matters have since been corrected with amendments filed on September 27, 2004 and October 21, 2004.

³ See FCC File No. 0001830800.

⁴ See CSAA Request at 1-2; see also 47 C.F.R. § 90.35(c)(63). On September 9, 2004, Luxenberg responded to the CSAA Request. See reply received on October 24, 2004 from Luxenberg (Luxenberg Reply). On September 17, 2004, CSAA filed a response to Luxenberg's reply. See response filed on September 17, 2004 from CSAA (CSAA Response). On September 20, 2004, Luxenberg filed a reply to the CSAA Response. See reply dated September 20, 2004 from Luxenberg (Luxenberg 2nd Reply). On October 18, 2004, CSAA filed a reply to the Luxenberg 2nd Reply. See response filed on October 18, 2004 from CSAA (CSAA 2nd Response).

⁵ See 47 C.F.R. § 90.35(c)(63).

the maintenance or testing of the protection facilities.⁶

4. CSAA indicates that it appears that Luxenberg is not certified as a central station commercial protection service by UL or any other rating agency.⁷ Information contained in the Luxenberg response indicates that he subcontracts out the actual monitoring work to UL certified central stations.⁸ Luxenberg contends that because of these contractual relationships he does render central station commercial protection service.⁹ We agree with CSAA, however, that the eligibility requirements of Section 90.35(c)(63) do not create eligibility through such contractual arrangements.¹⁰ CSAA notes that the Commission's rule is clear that the rendering of central station commercial protection service must be done by the certified central station and not by a non-certified agent or other non-eligible entity.¹¹ As CSAA notes, if an eligible central station entity desires to provide service to any of Luxenberg's customers using its radio system, the eligible entity can secure the FCC license and contract with Luxenberg for supporting services.¹²

5. As a result, we find that Luxenberg does not satisfy the eligibility requirements contained in Section 90.35(c)(63) of the Commission's Rules. Accordingly, the frequency pairs 460.900/465.900 MHz and 460.975/465.975 MHz will not be authorized to Luxenberg under Call Sign WPPU614. Rather than return the application, we will process it with respect to the frequencies not designated for central alarm services. If Luxenberg wishes to request additional channels to replace frequency pairs 460.900/465.900 MHz and 460.975/465.975 MHz, he may file a new modification application.

6. Accordingly, IT IS ORDERED that the informal request filed on August 24, 2004 by Central Station Alarm Association IS GRANTED TO THE EXTENT INDICATED HEREIN, and application FCC File No. 0001830800 SHALL BE PROCESSED consistent with this *Order* and the Commission's Rules. Specifically, the application SHALL BE DISMISSED with respect to frequency pairs 460.900/465.900 MHz and 460.975/465.975 MHz.

7. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Scot Stone
Deputy Chief, Mobility Division
Wireless Telecommunications Bureau

⁶ *Id.*

⁷ See CSAA Request at 2.

⁸ See Luxenberg Reply at 1.

⁹ *Id.*

¹⁰ See CSAA Second Response at 1.

¹¹ *Id.* at 3.

¹² *Id.*